

Deferred adjudication after not-guilty plea
(SB 217 by Uribe/Hinojosa)

DIGEST: SB 217 would have allowed a judge to grant deferred adjudication after a finding of guilty when the defendant pled not guilty. (Present law allows deferred adjudication only after a plea of guilty or nolo contendere, that is, "no contest." Deferred adjudication is the withholding of a judgment until after a probationary period, with the possibility of maintaining a "clean" criminal record.)

GOVERNOR'S
REASON
FOR VETO:

The governor said that deferred adjudication is often used by prosecutors to secure guilty pleas. To make deferred adjudication available to those who plead not guilty would encourage more people to go to trial and waste scarce judicial and prosecutorial resources.

AUTHOR'S
VIEW:

This bill was introduced at the request of the procedure section of the state Bar and was supported by people generally sympathetic to the prosecution, said Sen. Hector Uribe. He said that the purpose of the bill was to avoid a constitutional challenge. Because deferred adjudication is only available under present law to someone who pleads guilty, it exerts a chilling effect on the defendant's right to a jury trial. The bill was an effort to make the provisions for deferred adjudication clearly constitutional.

NOTES:

SB 217 passed the House on the Consent Calendar and was not analyzed in a Daily Floor Report.